

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7109 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA

- =====
1. Whether Reporters of Local Papers may be allowed : NO
to see the judgement?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

RAJESH @ BALLU @ BALVANT KANTILAL RANA

Versus

COMMISSIONER OF POLICE SURAT

Appearance:

MR MIG MANSURI for MR DEVANG T SHAH for Petitioner
MR AJ DESAI, ld.AGP for Respondents

CORAM : MR.JUSTICE M.R.CALLA

Date of decision: 10/03/2000

ORAL JUDGEMENT

This Special Civil Application is directed against the detention order dated 20th July 1999 passed by the Police Commissioner, Surat City, detaining the petitioner under the provisions of the Gujarat Prevention of Anti Social Activities Act, 1985. The petitioner is detained as a PASA detenu at Bhavnagar District Jail. The grounds of detention enclosed with the detention order show that criminal case was registered against the petitioner under the Prohibition Act, on 9th April 1999. The detaining authority has mentioned about the statements made by two witnesses with regard to the incident dated 22nd May 1999 and 8th June 1999. The witnesses have deposed against the petitioner's anti

social activities, but have prayed that their identity be kept secret. The detaining authority believed their fear to be genuine, has invoked the provisions of Section 9(2) of the Act. The detaining authority has found the petitioner to be a bootlegger and engaged in the related anti social activities. No reply to the petition has been filed on behalf of the respondents.

2. Learned Counsel for the petitioner has submitted that even if the alleged allegations levelled against the petitioner in the grounds of detention are taken to be true on the face of it, no case of breach of public order is made out. Learned Asstt. Govt. Pleader has failed to show as to how it is a case of breach of public order. In view of the several decisions of the Supreme Court, the nature of the allegations as have been levelled against the petitioner can, at the most, may make out a case of breach of law and order. The ingredients for the breach of public order are wanting in the instant case. Therefore, the detention cannot be justified. The impugned detention order dated 20th July 1999 passed by the Police Commissioner, Surat City is hereby quashed and set aside. It is directed that the petitioner, Rajesh Ballu @ Balvant Kantilal Rana be released forthwith, if not required to be detained in any other detention order or in any other criminal case. The Special Civil Application is hereby allowed. The Rule is made absolute.

(M.R. Calla, J.)

Sreeram.